From: Shmuel (Seymour J.) Metz
To: Microsoft ATR
Date: 1/25/02 1:40pm
Subject: Microsoft Settlement

I believe that the proposed settlement with Microsoft is not in the public interest for several reasons.

First, Microsoft was violating the consent decree that it negotiated with Ann Bingamon almost from the moment the ink was dry. There is no reason to expect better compliance with a new consent decree.

Second, the propsed agreement does nothing to alleviate or redress the harm that Microsoft's illegal conduct has caused and continues to cause to users of, e.g., Linux, OS/2.

Third, the proposed agreement diverts penalties into advertising for Microsoft. Providing free Microsoft products to the schools would only exacerbate the harm that it's anticompetitive practises have cause to developers and vendors of competitive products.

I am a longtime user of the operating system OS/2, and expect to be a user of the operating system Linux. When I buy a PC, I neither need nor want a copy of Windows. However, Microsoft has used its economic power to force dealers to sign contracts under which the dealers must pay Microsoft a license fee for every computer sold. Those dealers, of course, pass the cost on to their customers, and Microsoft has consistently refused to pay any refunds to those customers.

I believe that in order to be in the public interest and to satisfy the intent of the law, any settlement must include the following elements:

1. Require refunds to everyone who has purchased a PC from a dealer who bundled Microsoft products, unless the customer is using those products.

2. Require penalties to be paid to developers on competitive applications and operating systems

3. Require separation of Microsoft into independent hardware, applications, network and operating systems companies.

4. Require publication of all current and future proprietary file formats, communications protocols, etc. and a free perpetual license for their use.

5. Require the divested companies to provide interface data to their competitors at least 6 months prior to providing them to other

Microsoft companies. There should be periodic review to determine whether to adjust the length of the interval.

6. Require the applications companies to release new versions of its application for non-microsoft platforms, and require that all new features be available on competitive platforms for at least 6 months prior to making them available on microsoft platforms. As with item 5, there should be periodic reviews.

7. Impose substantial fines.

8. Require providing non-microsoft applications and operating systems to the schools.

9. Prohibit providing microsoft applications and operating systems to the schools.

10. Prohibit any contract with a hardware vendor that requires or encourages bundling of microsoft products.

11. Require the hardware company to develop drivers for non-Microsoft platforms, and require that all new features be available on competitive platforms for at least 6 months prior to making them available on microsoft platforms. As with item 5, there should be periodic reviews.

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